

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Lynn Woods,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:12cv352
vs.	:	
	:	Chief Judge Susan J. Dlott
Warden, Chillicothe Correctional	:	
	:	
Respondent(s).	:	

ORDER

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Stephanie K. Bowman filed on January 30, 2013 (Doc. 7), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired February 19, 2013, hereby ADOPTS said Report and Recommendation.

Accordingly, respondent's motion to dismiss (Doc. 5) is **GRANTED** and the petition (Doc. 1) is **DISMISSED** without prejudice to refile after petitioner has exhausted his state court remedies.

A certificate of appealability will not issue under the standard set forth in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), because "jurists of reason" will not find it debatable whether this Court is correct in its procedural ruling that petitioner has failed to exhaust state remedies and that this case is **DISMISSED** without prejudice pending exhaustion of such remedies. *Cf. Mingo, supra*, 151901, at \*4.

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court will certify pursuant to 28 U. S. C. § 1915 (a)(3) that an appeal of any Order adopting this

Report and Recommendation will not be taken in “good faith,” and therefore **DENIES** petitioner leave to appeal *in forma pauperis*. See Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6<sup>th</sup> Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott  
Chief Judge Susan J. Dlott  
United States District Court